

REMARKS

Claims 49-54 are pending for examination, with Claims 49 and 53 being independent claims.

Claims 49-51 and 53 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,026,391 to Osborn et al (hereafter "Osborn"). Claims 52 and 54 were rejected under 35 U.S.C. § 103(a) as being anticipated by Osborn et al in view of U.S. Patent No. 6,026,391 to Acharya et al (hereafter "Acharya").

The Applicant notes that the Examiner has inadvertently included the same text for the rejections set forth in the Office Action of 12/12/2005. The rejections to claims 49-54 in the Office Action of 6/30/2006 do not appear to be directed to the claimed subject matter as amended by the Applicant in the response of 6/15/2006. In addition, the rejections to claims 49-54 in the Office Action of 6/30/2006 do not appear to answer the specific arguments presented in the Applicant's traversal of the rejections in the response of 6/15/2006. Per the MPEP, section 707.07(f):

707.07(f) Answer All Material Traversed [R-3]

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

Where the requirements are traversed, or suspension thereof requested, the examiner should make proper reference thereto in his or her action on the amendment.

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

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If applicant's arguments are persuasive and upon reconsideration of the rejection, the examiner determines that the previous rejection should be withdrawn, the examiner must provide in the next Office communication the reasons why the previous rejection is withdrawn by referring specifically to the page(s) and line(s) of applicant's remarks which form the basis for withdrawing the rejection. It is not acceptable for the examiner to merely indicate that all of applicant's remarks form the basis for withdrawing the previous rejection. Form paragraph 7.38.01 may be used. If the withdrawal of the previous rejection results in the allowance of the claims, the reasons, which form the basis for the withdrawal of the previous rejection, may be included in a reasons for allowance. See MPEP § 1302.14. If applicant's arguments are persuasive and the examiner determines that the previous rejection should be withdrawn but that, upon further consideration, a new ground of rejection should be made, form paragraph 7.38.02 may be used. See MPEP § 706.07(a) to determine whether the Office action may be made final.

If a rejection of record is to be applied to a new or amended claim, specific identification of that ground of rejection, as by citation of the paragraph in the former Office letter in which the rejection was originally stated, should be given.

(Emphasis added).

Therefore, the Applicant respectfully requests the Examiner issue a new Office Action addressing the status of the claims as amended in the response of 6/15/2006 such that the Applicant may address any new rejections to the presently claimed subject matter.

The applicant notes that the Examiner has included a "Response to Arguments" section; however, the Applicant further notes that the response to arguments is not made with regard to a specific rejection. Regardless, the Applicant will respond to the Examiner's "Response to Arguments" for the purposes of expediting the process of examination.

The Examiner argues that Osborn teaches "determining a weight" as "recorded query history 50 is loaded into statistics cache for comparisons" at col. 6 line 51 to col. 7 line 16. The Applicant respectfully disagrees with the argument presented by the Examiner. In

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particular, the Applicant disagrees that Osborn teaches “determining a weight” at col. 6 line 51 to col. 7 line 16. The Applicant notes that the language of Osborn at the cited section recites “each user station records pertinent information for each new user query, which are collected and maintained by the host computer 22 in a query history 50” (underlining added for emphasis). The presently claimed subject matter of determining a sample weight of a tuple and simply recording information for each user query are two separate and distinct operations. As per the Examiner’s request, the Applicant submits that the best support for this argument may be found at the disclosure on page 21, lines 5 through 18. However, the Applicant asserts that the example process for determining a weight at this cited section of the disclosure is an example only and as Osborn does not disclose a determination of any kind, Osborn does not anticipate such a determination.

With regard to the Examiner’s argument that “it is clear to one of skill in the art that the preferred data from the history is used, depending on user application whether the user is concerned about the cost , length, or efficiency of executing a query, equivalent to ranking or weighting the preferred searchable data”. The Applicant respectfully disagrees with this argument. Osborn does not teach or suggest ranking or weighting the recorded data at the section cited by the Examiner. Rather, col. 6 line 51 to col. 7 line 6 pertains to the recording of query history only. For example, Osborn teaches that the query history includes “the query ID 58, the date 60 and time 62 at which the query was executed; the user ID 64 of the user station 24 submitting the query; and identification of the result set 66 for the query – i.e., the particular table(s) and column(s) that were accessed; whether the query was satisfied from a pre-compiled summary table 68; the estimated cost 70 for the query; the actual CPU time 72 used in running the query; and the estimated time 73 and actual total elapsed time 74 required for the system 20 to respond to the query”.

At col. 7, lines 7–16, Osborn discloses “[r]eferring additionally to FIG. 4, the QPP module 46 compares 80 the cost estimate 44 and result set 45 for the present query 40 to the recorded estimated costs and results sets of past queries stored in the query statistics cache 48. If an exact match is found between the present query 40 and a recorded past query 58 stored in the cache 48 (i.e., wherein both queries have the same estimated costs for the same result sets), the QPP module 46 selected the recorded actual CPU time 72 of the matching past query 58 as an estimated CPU time 82 for the present query 40”.

The Applicant notes that neither the terms “weighting” or “ranking” appear anywhere in the cited sections of Osborn. In contrast, the cited sections of Osborn discuss recording query history and then searching the query history for a similar cost estimate of the present query. The operations of recording and searching are not equivalent to “weighting” and “ranking” as is asserted by the Examiner. It is requested that the Examiner present subjective evidence to support the argument that “recording” and “searching” are equivalent to “weighting” and “ranking” so that such subjective evidence may be considered by the Applicant.

The Examiner also argues that “Applicants claim one past query, and executing one past query would result in all tuples having an equivalent weight of one”. The Applicant respectfully disagrees with the argument presented by the Examiner. In particular, the Examiner has presented an argument unsupported by any subjective evidence. Therefore, the Applicant respectfully requests the Examiner present subjective evidence to support the argument that one query will result in all tuples having an equivalent weight of one so that such evidence may be considered by the Applicant.

CONCLUSION

Accordingly, in view of the above remarks it is submitted that the claims are patentably distinct over any prior art. Reconsideration and reexamination of the above Application is requested. Based on the foregoing, the Applicant respectfully requests that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, the Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
Microsoft Corporation

Date: 10-2-2006

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Kate Marochkina
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